

will remain under the Moderate Rehabilitation ACC which provides for such a conversion of units; therefore, no amendment to the ACC will be necessary to convert to Existing Housing units.

(f) *Families determined by the PHA to be ineligible.* If a Family is determined to be ineligible in accordance with the PHA's HUD-approved application, either at the application stage or after assistance has been provided on behalf of the Family, the PHA shall promptly notify the Family by letter of the determination and the reasons for it and the letter shall state that the Family has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines, based on a preponderance of the evidence, that the Family is ineligible, it shall notify the Family in writing. The procedures of this paragraph do not preclude the Family from exercising its other rights if it believes it is being discriminated against on the basis of race, color, religion, sex, age, handicap, familial status, or national origin. The informal review provisions for the denial of a Federal selection preference under § 882.517 are contained in paragraph (k) of that section. The informal hearing requirements for denial and termination of assistance on the basis of ineligible immigration status are contained in 24 CFR part 5.

(g) *Considerations in certain denials and terminations.* In determining whether to deny or terminate assistance based on drug-related criminal activity or violent criminal activity:

(1) A PHA may deny or terminate assistance if the preponderance of evidence indicates that a Family member has engaged in such activity, regardless of whether the Family member has been arrested or convicted;

(2) A PHA shall have discretion to consider all of the circumstances in each case, including the seriousness of the offense, the extent of participation by Family members, and the effects that denial or termination would have on Family members not involved in the proscribed activity. PHAs, in appropriate cases, may permit the remaining members of the Family to continue receiving assistance and may impose a

condition that Family members determined to have engaged in the proscribed activities will not reside in the unit. A PHA may require a Family member that has engaged in the illegal use of drugs to submit evidence of successful completion of a treatment program as a condition to being allowed to reside in the unit.

(Approved by the Office of Management and Budget under control number 2502-0123)

[47 FR 34383, Aug. 9, 1982, as amended at 49 FR 19945, May 10, 1984; 51 FR 11226, Apr. 1, 1986; 52 FR 1895, Jan. 15, 1987; 53 FR 847, Jan. 13, 1988; 53 FR 1155, Jan. 15, 1988; 53 FR 6601, Mar. 2, 1988; 54 FR 39705, Sept. 27, 1989; 55 FR 28547, July 11, 1990; 56 FR 7539, Feb. 22, 1991; 60 FR 14844, Mar. 20, 1995; 61 FR 9046, Mar. 6, 1996; 61 FR 13625, Mar. 27, 1996]

**§ 882.515 Reexamination of family income and composition.**

(a) *Regular reexaminations.* The PHA must reexamine the income and composition of all families at least once every 12 months. After consultation with the family and upon verification of the information, the PHA must make appropriate adjustments in the Total Tenant Payment in accordance with part 813 of this chapter and determine whether the family's unit size is still appropriate (see § 882.213). The PHA must adjust Tenant Rent and the Housing Assistance Payment to reflect any change in Total Tenant Payment. At the time of the annual reexamination of family income and composition, the PHA must require the family to disclose and verify Social Security Numbers. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 5, subpart B, of this title. At the first regular reexamination after June 19, 1995, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of all family members. Thereafter, at each regular reexamination, the PHA shall follow the requirements of 24 CFR part 5 concerning verification of immigration status of any new family member.

(b) *Interim reexaminations.* The family must comply with provisions in

§ 882.118 regarding interim reporting of changes in income. If the PHA receives information concerning a change in the family's income or other circumstances between regularly scheduled reexaminations, the PHA must consult with the family and make any adjustments determined to be appropriate. Any change in the family's income or other circumstances that results in an adjustment in the Total Tenant Payment, Tenant Rent, and Housing Assistance Payment must be verified. See part 5, subpart B, of this title for the requirements for the disclosure and verification of Social Security Numbers at interim reexaminations involving new family members. For requirements regarding the signing and submitting of consent forms by families for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 5, subpart B, of this title. At any interim reexamination after June 19, 1995 when there is a new family member, the PHA shall follow the requirements of 24 CFR part 5 concerning obtaining and processing evidence of citizenship or eligible immigration status of the new family member.

(c) *Continuation of housing assistance payments.* A family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by part 5, subpart B, of this title, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by part 5, subpart B, of this title. For provisions requiring termination of assistance when the PHA determines that a family member is not a

U.S. citizen or does not have eligible immigration status, see 24 CFR parts 5 and 982 for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance.

[56 FR 7539, Feb. 22, 1991, as amended at 60 FR 14844, Mar. 20, 1995; 61 FR 11118, Mar. 18, 1996; 61 FR 13625, Mar. 27, 1996]

#### **§ 882.516 Maintenance, operation and inspections.**

(a) *Maintenance and operation.* The Owner must provide all the services, maintenance and utilities as agreed to under the Contract, subject to abatement of housing assistance payments or other applicable remedies if the Owner fails to meet these obligations.

(b) *Periodic inspection.* In addition to the inspections required prior to execution of the Contract, the PHA must inspect or cause to be inspected each dwelling unit under Contract at least annually and at such other times as may be necessary to assure that the Owner is meeting the obligations to maintain the unit in decent, safe and sanitary condition and to provide the agreed upon utilities and other services. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

(c) *Units not decent, safe and sanitary.* If the PHA notifies the Owner that the unit(s) under Contract are not being maintained in decent, safe and sanitary condition and the Owner fails to take corrective action (including corrective action with respect to the Family where the condition of the unit is the fault of the Family) within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments (even if the Family continues in occupancy), termination of the Contract on the affected unit(s) and assistance to the Family in accordance with § 882.514(e).

(d) *PHA management.* Where the PHA is managing units on which it is also administering the Housing Assistance